

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PAUL C. BOLIN, E88100,

Plaintiff,

v.

XAVIER BECERRA, et al.,

Defendants.

Case No. [19-cv-07700-CRB](#) (PR)

**ORDER OF DISMISSAL**

(ECF No. 3)

Plaintiff, a state prisoner incarcerated at San Quentin State Prison's (SQSP) death row and a frequent litigant in federal court, submitted for filing a pleading entitled "Demand for Statutory Default Judgment" (ECF No. 1 at 1) the clerk filed as a new civil action. Although plaintiff claims that his pleading is a demand for default rather than a civil action, it's clear from the pleading that he seeks damages from the state attorney general and various other individuals connected with his 1991 conviction and death sentence from Kern County Superior Court on the ground that defendants' "failure to declare the petitioner's judgment void in Kern County Superior Court" as mandated by law constitutes "a default." ECF No. 1 at 2.


To the extent plaintiff seeks damages based on actions or omissions that would render his conviction or sentence invalid, his civil action or demand for default is barred under the rationale of Heck v. Humphrey, 512 U.S. 477 (1994), until his conviction or sentence first is reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus. See 512 U.S. at 486-87. And to the extent plaintiff seeks to challenge the validity of his conviction or sentence, his sole remedy is to file a petition for a writ of habeas corpus under 28 U.S.C. § 2254. See Calderon v. Ashmus, 523 U.S. 740, 747 (1998). Plaintiff's civil action or demand for default accordingly is DISMISSED without prejudice.

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The clerk is instructed to close the file and terminate all pending motions as moot. But based solely on his affidavit of poverty, plaintiff's application for leave to proceed IFP (ECF No. 3) is GRANTED.

**IT IS SO ORDERED.**

Dated: January 10, 2020

  
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CHARLES R. BREYER  
United States District Judge

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Case No. 3:19-cv-07700-CRB

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 10, 2020, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Paul C. Bolin ID: E-88100  
San Quentin State Prison 3EY12  
San Quentin, CA 94974

Dated: January 10, 2020

Susan Y. Soong  
Clerk, United States District Court

By:   
Lashanda Scott, Deputy Clerk to the  
Honorable CHARLES R. BREYER